

# **EXHIBIT C**

**From:** [Randall Garteiser](#)  
**To:** [Fischer, Janna](#)  
**Cc:** [Peter Brasher](#); [bluespike@ghiplaw.com](mailto:bluespike@ghiplaw.com); [Armon, Orion](#); [Bradford, Sara](#); [z/FB-Blue Spike](#); [ddacus@dacusfirm.com](mailto:ddacus@dacusfirm.com); [Christopher Honea](#)  
**Subject:** Re: Blue Spike v. Facebook -- follow up from today's call  
**Date:** Friday, May 23, 2014 4:15:32 PM

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Sorry for the delay, Blue Spike agrees to not oppose any motion by Facebook to have separate trials as you have outlined.

Blue Spike does oppose Facebook's motion to sever. We don't understand the purpose of proceeding in the manner Facebook is suggesting, given Facebook has already filed two (2) amended answers (A) an answer to Blue Spike's Amended Complaint directed specifically at Facebook's accused technology (as a supplier) and (B) separately Facebook filed a separate Amended Answer to Blue Spike's Amended Complaint against Audible Magic, which includes Facebook as a customer of Audible Magic.

Facebook has the funds to file motions but should do so under teachings of Rule 1 of the Federal Rules of Civil Procedure. In our compromise above, Facebook gets the relief it wants - separate trials.

Be well,



**Randall Garteiser** / Partner

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On May 23, 2014, at 4:52 PM, Fischer, Janna <[jfischer@cooley.com](mailto:jfischer@cooley.com)> wrote:

Dear Randall,

We're about to head out here for the long weekend, but we want to close this issue out on Tuesday via a short telephone meet and confer.

If Blue Spike does not agree to filing a new complaint and having separate trials for the Facebook and Audible Magic, we would like to hear Blue Spike's position so we have a clear understanding of what issues are in dispute for our motion.

Please provide some times for counsel's availability on Tuesday.

Best,

**Janna K. Fischer**

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**From:** Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]  
**Sent:** Friday, May 23, 2014 3:03 PM  
**To:** Fischer, Janna  
**Cc:** Fischer, Janna; Peter Brasher; [bluespike@ghiplaw.com](mailto:bluespike@ghiplaw.com); Armon, Orion; Bradford, Sara; z/FB-Blue Spike; [ddacus@dacusfirm.com](mailto:ddacus@dacusfirm.com)  
**Subject:** Re: Blue Spike v. Facebook -- follow up from today's call

Need a little more time, thanks.

On May 23, 2014, at 8:46 AM, "Fischer, Janna" <[jfischer@cooley.com](mailto:jfischer@cooley.com)> wrote:

Dear Counsel,

We have not received Blue Spike's response on whether Blue Spike agrees to Facebook's proposal, discussed during Wednesday's meet and confer, that Blue Spike file a new complaint accusing Facebook's tag suggestion technology. Facebook's proposal is detailed below. Please advise by 5 p.m. Mountain time today whether Blue Spike agrees to this proposal. If Blue Spike does not agree, Facebook will move ahead with filing its motion to sever.

We look forward to your response.

Best,

**Janna K. Fischer**

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**From:** Fischer, Janna [<mailto:jfischer@cooley.com>]  
**Sent:** Wednesday, May 21, 2014 3:56 PM  
**To:** Randall Garteiser; Peter Brasher; [bluespike@ghiplaw.com](mailto:bluespike@ghiplaw.com)  
**Cc:** Armon, Orion; Bradford, Sara; z/FB-Blue Spike  
**Subject:** Blue Spike v. Facebook -- follow up from today's call

Dear Counsel,

I'm writing to follow up on today's call. As we discussed, Facebook proposes:

- (1) Blue Spike files a new complaint against Facebook, accusing Facebook's own technology (i.e., facial recognition / tag suggestions)
- (2) Facebook will agree not to oppose the new lawsuit being placed on the same "supplier" schedule it is presently on

- (3) The parties agree that the new case may be administratively consolidated with the other cases but that the Audible Magic / Facebook infringement case will be tried separately from the infringement case on Facebook's own technology

Please provide Blue Spike's response by the end of the day on Thursday, May 22.

Best,

**Janna K. Fischer**

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